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REMARKS

The present response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application is respectfully requested.

Applicant respectfully asserts that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims is respectfully requested.

Status of Claims

Claims 1-39 were previously cancelled. Claims 40-42 were pending in the application. Claims 40-42 have been rejected. Claims 40-42 are currently being voluntarily amended by the Applicant without prejudice, and new claims 43-60 are currently being added by the Applicant.

CLAIM REJECTIONS

35 U.S.C. § 103 Rejections

In the Final Office Action, the Examiner rejected claims 40-42 under 35 U.S.C. § 103(a), as being unpatentable over Johnson et al. (US 6,497,599) in view of Xu et al. (US 6,501,732), and further in view of Hannel et al. (US Patent Application, Pub. No.: US 2008/0028436 A1).

Applicant respectfully traverses these rejections, however in the interest of expediting the prosecution of the present Application, Applicant has voluntarily amended Claims 40-42 and added claims 43-60, to clarify the subject matter claimed.

Applicant respectfully asserts that the references relied upon by the Examiner, alone or in combination, neither teach nor suggest the limitations recited in pending independent claims 40-42, both prior to and after the current amendment. Namely, the limitations of: establishing or providing a data connection between a mobile device and a packet-based

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data network, and regulating data flow over the connection based on information received over the data network, recited in different forms in pending independent claims 40-42 (both previously and as currently amended) is neither taught nor suggested by any of the cited references, alone or in combination. Applicant would like to respectfully point out that the Examiner elegantly avoided this argument in the Final Office Action by pointing out that the “packet-based” element of these limitations is recited in the pre-amble of the claims and therefore cannot be considered a limitation of the claim (see pg. 6-8 of the Final Office Action). In reality, however, the “packet-based” limitation was actually recited in independent claims 41 & 42 prior to the current amendment and has currently been added to pending independent claim 40, such that it now appears in all three pending independent claims 40-42. Therefore, Applicant would like to respectfully restate the argument that these limitations are notably absent from all 3 of the cited references.

Moreover, Applicant respectfully argues that the combination of the three unrelated cited prior art references, at least two of which are associated with different fields of technological endeavor, is improper and would lead to an inoperable device. The Johnson reference teaches a method and system for regulating bandwidth allocation within a wireless network and deals entirely with coordination of wireless transmissions, in frequency and timing, the Xu reference teaches a buffer of sorts between a data network and a mobile switch center, and the Hannel reference teaches an internal data filter designed to control data access. The Examiner would have one of ordinary skill in the art, combine a wireless bandwidth allocation system with a buffer intended for a mobile switching center altered in accordance with the teachings of an internal data access filter?? Clearly, this combination would not be obvious to one of ordinary skill in the art and, moreover, would necessarily produce an inoperable device. Although, Applicant respectfully argues that, even if the combination was obvious and practical, it would yet fail to teach the limitations recited in pending independent claims 40-42.

More specifically, independent claims 40, 41 and 42, respectively, recite:

- “40. *A gateway to a packet-based data network comprising:*
a transceiver adapted to establish a radio-frequency link with a mobile device;
a first interface adapted to facilitate data flow between the mobile device and the packet-based data network; and
a controller adapted to regulate data flow between the mobile device and the data network based, at least partially, on information received over the data network from a coordination center, which center is connected to the data network through a second interface.”
41. *A communication system comprising:*
a coordination center connected to a packet based data network through a first Interface, two or more gateways functionally associated with a packet based data network, wherein each gateway comprises:
a transceiver adapted to establish a radio-frequency link with a mobile device;
a second interface adapted to facilitate data flow between the mobile device and the data network; and
a controller adapted to regulate data flow between the mobile device and the data network based, at least partially, on information received over the data network from said coordination center.”
42. *A method of providing data to a mobile device comprising:*
establishing a data link between the mobile device and a radio-frequency transceiver, which transceiver is functionally associated with a packet based data network through a first interface;
regulating data flow between the mobile device and the packet based data network based, at least partially, on information received over the data network from a”

coordination center, which center is connected to the data network through a second interface."

Whereas the three cited prior are references generally teach:

Johnson reference

"In general, according to one embodiment, a method for use in a mobile communications system includes allocating a plurality of channels each having a predetermined frequency to carry signals. A plurality of time groups are defined, and a channel reuse pattern is provided that is based on both channel frequencies and time groups.

Some embodiments of the invention may provide one or more of the following advantages. By providing a channel reuse pattern that is based on both channel frequencies and time groups, a higher effective channel reuse is provided as compared to a reuse pattern based only on the number of channel frequencies..." (Johnson - Summary)

Xu reference

"A system and method for controlling the flow of data from a data network to a mobile user over a wireless link. A data flow controller is provided in an inter-working gateway between the mobile switch center of the wireless network and the data network. The data flow controller determines the amount of available space in the mobile switch center buffer and ensures that the amount of data sent to the mobile switch center is no greater than the available buffer space. The data flow controller continually updates the available buffer space by determining the amount of data sent periodically to the mobile user according to a given airlink data rate. The data flow controller includes a buffer to store any remaining data that could not be sent to avoid overflowing the mobile switch center buffer..." (XU - Abstract).

Hannel reference

"A scalable access filter that is used together with others like it in a virtual private network to control access by users at clients in the network to information resources provided by

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servers in the network. Each access filter use a local copy of an access control database to determine whether an access request made by a user. Changes made by administrators in the local copies are propagated to all of the other local copies. Each user belongs to one or more user groups and each information resource belongs to one or more information sets. Access is permitted or denied according to of access policies which define access in terms of the user groups and information sets. The rights of administrators are similarly determined by administrative policies. Access is further permitted only if the trust levels of a mode of identification of the user and of the path in the network by which the access is made are sufficient for the sensitivity level of the information resource...” (Hannel - Abstract)

Applicant respectfully argues that an adequate reading of the above excerpts clearly shows that the cited references neither teach nor suggest the limitations recited in pending independent claims 40-42, neither alone nor in combination (even if the combination was proper). Namely, the limitation of **regulating data flow** through a **gateway** between a **mobile device** and a **packet-based network**, based on information **received over the packet-based network** from a coordination center, is neither taught nor suggested by any of the cited references. The Examiner admits in the Final Office Action that the Johnson reference makes no mention of this limitation (see pg. 3 line 1 of the Office Action). In reality, not only is there no mention or suggestion of regulating data flow to a packet based data network from a gateway, the Johnson reference makes no mention whatsoever of regulating data flow through a gateway at all. Furthermore, all of the components the Johnson reference teaches operate within a circuit switched network and not a packet-based network and are focused on bandwidth allocation and not regulation of data flow. In short, the Johnson reference teaches nothing regarding data flow regulation and gateway management or structure. Applicant respectfully submits that the only teaching in the Johnson reference relevant to the pending application is the establishment and maintenance of an RF link with a mobile user.

In the Office Action, the Examiner egregiously attempts to equate a data buffer taught by the Xu reference with the controller recited in the pending claims. Clearly, the two are patentably distinct and in reality, actually relate to completely different operations. Wherein, the data flow controller taught by Xu, regulates data flow between a data network to a switch

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center, the controller recited in the pending claims regulates data flow to a mobile device. Wherein, the controller taught by Xu regulates flow based on the switch center's buffer space, in essence merely serving as another buffer, the controller recited in the pending claims regulates data flow based on information received from a coordination center. Furthermore, the controller taught by the Xu reference does not receive any data related to its operation over the data network, as recited in the pending claims. In short, the controller taught by Xu is in effect a buffering component between a data network and a switch center, and is in no way analogous to the controller regulating data flow to a mobile device based on information received from a coordination center over the data network, recited in the pending claims.

Applicant further respectfully argues that the Hannel reference cannot cure the above mentioned deficiencies and clearly does not teach the limitation of a controller regulating data flow to/from a mobile device through a gateway to a packet-based data network. Applicant is yet further puzzled by the Examiner's reference to the Hannel reference, which teaches an access filter for regulating access to sensitive information. Hannel teaches a virtual Private network architecture, where one or more servers of the architecture are behind an access filter. These access filters regulate access to one or more network resources (i.e. servers) and operate based on local copies of a policy database. Aside and apart from this reference having little to do with the claimed subject-matter in the pending claims, Applicant respectfully argues that filtering access to a database based on user access credentials, as taught by the Hannel reference, cannot be analogous to regulating data flow to/from a mobile device through a gateway to a data network, even if there was motivation to combine this access filter to the wireless systems taught by the other references. Moreover, the discussed Hannel filter does not receive information from a coordination center over the data network as recited in the pending claims.

In general, Applicant respectfully points the Examiner's attention to the fact that the cited references focus on cellular architectures which are not packet based and relate to a non-analogous technology from the one claimed. Namely, the cited references generally teach **cellular networks, which are digital and data based, but are circuit switched**. Whereas, all the pending claims recite regulating access to a packet-based data network (e.g the Internet). The architecture of the network taught by the cited references is for the

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most part a wireless extension of a standard Public Switched Telephone Network ("PSTN"), which has been well known in the art for more than 100 years, and which is clearly different from the packet-based data network recited in all the pending claims. Applicant respectfully asserts that anyone of ordinary skill in the art reading the teachings of the Xu and Johnson references, both of which relate to cellular circuit switched networks, would not consider applying their teachings (i.e. related to RF management and policy based buffer management techniques) to the gateway, communication system and method claimed in the pending claims - as each of the pending claims is specifically directed to regulating access of a wireless device (not RF bandwidth or buffer size) to a packet based network to which the gateway is connected (e.g. Internet) based on information received over the packet-based network.

Furthermore, even if one were to overlook these fundamental distinctions, Applicant submits that the cited references simply fail to teach the limitation of regulating data flow through a gateway between a mobile device and a packet-based network, based on information received over the packet-based network from a coordination center. None of the cited references teach a controller that receives any information related to data flow over the data network.

Lastly, Applicant would like to respectfully traverse the Examiner's contention that the Hannel reference teaches a consideration-related policy data base, where Hannel makes no mention of consideration of any kind and actually deals only with data security. As the Hannel teachings all relate to a private network and regulation of access to data within the network, it is clear why no mention of consideration is made. Why would one need consideration within a private network?

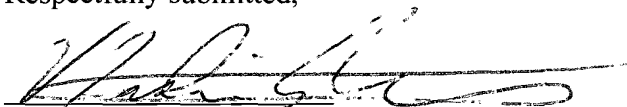
In view of the foregoing clarifications and remarks, all the pending claims are considered to be allowable. Their favorable reconsideration and allowance is respectfully requested.

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the

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prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Vlad Sherman', written over a horizontal line.

Vladimir Sherman

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Registration No. 43,116

Dated: **December 16, 2010**